IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Krishna Chand Vs. State of Rajasthan & Ors.

S.B. Criminal Misc. Petition No. 570/2007

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Date of Order : 05/10/2007

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. G.R.Punia, for the petitioner.
Mr. M.K.Garg for the respondents No.2 to 4.
Mr. Ashok Upadhyay, public prosecutor for the State.

BY THE COURT:

By the instant criminal misc. petition under Section 482 Cr.P.C., the accused petitioner has challenged the order dated 27.2.2007 passed by Additional Sessions Judge No.1, Sri Ganganagar (for short 'the revisional court' hereinafter) in Criminal Revision No.105/2006 whereby the revision petition filed by the petitioner against the order dated 09.11.2006 passed by Judicial Magistrate, Ist Class, Sri Ganganagar (for short 'the trial court' hereinafter) allowing the legal representatives of the

deceased complainant Late ShriKrishna Sachdeva to continue the complaint case, was dismissed.

I have heard learned counsel for the parties. Perused the orders impugned passed by the courts below.

It appears from the orders impugned that a complaint under Section 138 of the Negotiable Instruments Act, 1881 (for short 'the Act' hereinafter) was filed by Shri Krishna Sachdeva against the present petitioner on the ground that a cheque issued by the petitioner on being presented to the bank was dishonoured and returned unpaid. Thereafter, a notice demanding the cheque amount within 15 days from the date of service of notice, was served and the petitioner failed to pay the cheque amount within the stipulated period of notice and thereafter within the period of limitation, the complaint under Section 138 of the Act was filed. During the pendency of the complaint, the complainant Shri Krishna Sachdeva expired. The respondent No.2 Smt. Suman Sachdeva who is wife of Late Shri Krishna Sachdeva and respondents No.3 R.N.Dushyant and No.4 Abhishk who are sons of Late shri Krishna Sachdeva moved an application to allow them to continue the prosecution of the complainat case. That application came to be allowed by the trial court vide order dated 9.11.2006. That order was challenged by the petitioner by way of revision before the revisional court and the revision petition filed by the petitioner came to be dismissed

by order impugned dated 27.2.2007.

The controversy involved in the instant case stands concluded by decision of this Court as well as by Hon'ble Supreme Court.

This Court in Sushila (Smt.) and Ors. Vs. State of Rajasthan and Anr. 2007 (1) Cr.L.R. (Raj.) 213 held that during pendency of complaint, the complainant died, the legal heirs of complainant are entitled to continue prosecution and proceed with matter in accordance with law.

In Balasaheb K. Thackeray (Shri) & Anr. Vs. Shri Venkat @ Babru & Anr. 2006 Cr.L.R. (SC) 562, Hon'ble Supreme Court considering the provisions of Section 302 Cr.P.C. held that permission to conduct the prosecution after the death of complainant through his legal heirs is permissible under the law.

In this view of the matter, I do not find any error, illegality or perversity in the orders impugned warranting interference in the inherent jurisdiction.

The criminal misc. petition is therefore, dismissed.

(H.R. PANWAR), J.

rp.